

VZCZCXYZ0000
OO RUEHWEB

DE RUEHML #3065 2020957
ZNR UUUUU ZZH
O 210957Z JUL 06
FM AMEMBASSY MANILA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 2119
INFO RHHMUNA/CDRUSPACOM HONOLULU HI IMMEDIATE
RUEKJCS/JOINT STAFF WASHINGTON DC IMMEDIATE
RUEKJCS/SECDEF WASHDC IMMEDIATE

UNCLAS MANILA 003065

SIPDIS

SIPDIS

E.O. 12958: N/A
TAGS: [PREL](#) [MARR](#) [KCRM](#) [CASC](#) [RP](#)
SUBJECT: MARINE CASE UPDATE 07/21/06

REF: A. MANILA 2969
[B](#). 2962 AND PREVIOUS

[1](#). The trial of four Marines accused of raping a Filipino woman continued the week of July 17. The lawyer for Timoteo Soriano, the driver of the Starex van the Marines rented the night of November 1, objected to the subpoena requesting Mr. Soriano testify for the prosecution on July 17, invoking Mr. Soriano's right against self-incrimination due to the fact that the Prosecution has not ruled out including him as an accomplice in this criminal case. (The motion is currently at the Court of Appeals.) He also is the subject of a civil case apparently already filed against him and the owner of the Starex Van Company by the same complainant. Mr. Soriano may be called again to testify, probably on July 24, but it is unclear whether he will appear.

[2](#). On July 18, prosecution expert witness Chief Inspector Francisco Supe of the Philippine National Police DNA analysis section testified that he found DNA evidence linking the complainant to two pieces of physical evidence, her underwear and a used condom. He also found DNA evidence that linked a male, as yet unidentified, to the underwear but not to the used condom. Inspector Supe cited environmental or bacterial degradation as possible reasons why there was a lack of male linkage to the condom. The defense attorneys for the defendants have declined to let their clients provide blood samples for DNA testing absent compelling arguments by the prosecution of the relevance accepted by the court.

[3](#). The prosecution likely will bring its case to a close by the end of next week after also calling a toxicologist. We then expect a gap of one to two weeks while the prosecution files a "comment on the evidence." (Note: evidence such as the underwear and used condom have been "marked" but not yet formally "admitted" as evidence. END NOTE) The judge will then rule on the admissibility of the prosecution's evidence, after which the defense counsels will have the apparent chance to comment. The defense counsels will then commence their cases, which will include testimony by the four defendants. At least one defense attorney has also requested USG assistance in bringing in three other U.S. military witnesses who were at Subic at the time of the alleged incident. NCIS has assisted in locating them and believes that two would be available, but a third apparently has left the Marine Corps and may not wish to return to testify. The defense case is expected to last no more than three weeks.

[4](#). On July 17, INQ7.net, a popular Filipino news website, gave LCpl Daniel Smith via his lawyer a set of written interview questions to answer. In light of LCpl Smith's unexpected interview July 12 to the AP, the Working Group agreed once again to make clear to all four Marines the guidelines in reftels and the need to give prior notification if they wish to speak to the media. Mission intends to permit all reasonable requests that the defendants and

defense counsels believe would enhance their case.

¶5. ACS Manila and State Consular Affairs (CA) have responded to regular inquiries from one family member, and to one recent inquiry from another. The Working Group requested that ACS urge Consular Affairs to consult with NCIS headquarters and Marine Corps headquarters, both of which have received inquiries from at least one family member, and to ensure the USG is providing the best possible support and information to the families. Embassy is awaiting final approval from Consular Affairs for a letter responding to a letter from one family member.

¶6. Mission continues to provide security, citizen services, and other support to the Marines. Personnel from III MEF, JUSMAG, Regional Security Office (RSO), and the Consular Section continue to attend all court sessions. RSO remains pleased with the extent and quality of security support provided by the mayor's office and police department.
Kenney